

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
FINAL STATEMENT OF REASONS FOR REGULATORY ACTION

Amend Section 7.50 (180)
Title 14, California Code of Regulations
Re: Smith River

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| I. | Date of Initial Statement of Reasons: | April 10, 2004 |
| II. | Date of Pre-adoption Statement of Reasons: | May 20, 2004 |
| III. | Date of Final Statement of Reasons: | June 28, 2004 |
| IV. | Dates and Locations of Scheduled Hearings: | |

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| (a) | Notice Hearing: | Date: | April 2, 2004 |
| | | Location: | Sacramento |
| (b) | Discussion/Adoption
Hearing | Date: | June 24, 2004 |
| | | Location: | Crescent City |

- ## V. Update:

No modifications were made to the originally proposed language of the Initial Statement of Reasons.

- VI. Summary of Primary Considerations Raised in Support of or Opposition to the Proposed Actions and Reasons for Rejecting those Considerations:

1. John Woolworth, Friends of Cal-Ore Fish, letter 3/19/04; Val and Gary Early, Friends of Cal-Ore Fish, oral testimony, special meeting, crescent City 3/24/04; Chuck Blackburn, Dan Carter, Ray Williams, Allen Orton, all oral testimony, 6/25/04.

Recommended or supported three changes to Smith River angling regulations:

1) Extend the period when bait is allowed so bait could be used during September and October, 2) Change the closure date for steelhead from March 31 to April 30 each year from the mouth to the main stem confluence of South Fork and the Middle Fork (Smith River), and 3) Change the barbless hook regulation to allow barbed hooks from September 1 to April 30.

Department Analysis/Recommendation: Accept the use of bait during September and October. Do not accept season changes or barbless hook regulation change proposals.

2. Ted Souza, oral testimony, 6/25/04. Opposed to the use of bait.
Department Analysis/Recommendation: Opposition is acknowledged.

VII. Location and Index of Rulemaking File:

A rulemaking file with attached index is maintained at:
California Fish and Game Commission
1416 Ninth Street
Sacramento, California 95814

VIII. Location of Department files:

Department of Fish and Game
1416 Ninth Street
Sacramento, California 95814

IX. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change: None

(b) No Change Alternative:

A no-change alternative would prevent increased fishing opportunities and a more diverse fishery for Chinook salmon in the Smith River.

(c) Consideration of Alternatives: None

X. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States: The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses compete with businesses other states.
The proposed regulation provides additional fishing opportunities and is likely to have a positive affect on local businesses.
- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.

(c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

(e) Nondiscretionary Costs/Savings to Local Agencies: None

(f) Programs mandated on Local Agencies or School Districts: None.

(g) Costs Imposed on Any Local Agency or School District that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: None

(h) Effect on Housing Costs: None.

Updated Informative Digest/Policy Statement Overview

Current sport fishing regulations for the Smith River in the reaches of: a) the main stem from the mouth to the confluence with the Middle and South forks, b) the Middle Fork from the mouth to Patrick Creek, 3) the South Fork from the mouth to Jones Creek, and the North Fork from the mouth to Stony Creek restrict the type of gear to artificial lures with barbless hooks from the fourth Saturday in May through October 31. The use of bait with barbless hooks is allowed from November 1 through March 31. The use of barbed hooks is prohibited all year.

This proposal recommends regulation changes for the Smith River that would allow the use of bait with barbless hooks for two additional months during September and October within the four river reaches identified above.

The proposed regulation change would provide for a more diverse fishery and increase angling opportunity for Chinook salmon in the Smith River while continuing to protect sensitive species. Creel census data during the years of 1997 through 2002 indicate zero coho salmon and very few steelhead were observed in angler catches prior to November. Based on these data, the Department concludes that allowing the use of bait during September and October does not create additional risk to listed species. In addition, the Smith River upstream of the estuary reach is rarely open prior to November due to the Department's low flow management regulation which is implemented from October 1 through January.

The Commission adopted the proposal.

Final Statement of Reasons Addendum

Ted Souza, oral testimony, 6/25/04. Opposed to the use of bait.

Department Analysis/Recommendation: ~~Opposition is acknowledged.~~

The use of bait is currently allowed in the Smith River from November 1 through March 31, but regulations do not provide for its use during the months of September and October, when Chinook salmon enter the Smith River estuary. The Department is supporting the use of bait during September and October because it would provide for a more diverse fishery and increase angling opportunity for Chinook salmon in the Smith River while continuing to protect all listed species. Creel census data during the years of 1997 through 2002 indicate zero coho salmon and very few steelhead were observed in angler catches prior to November. Based on these data the Department concludes that allowing the use of bait during September and October does not create additional risk to listed species.